

House Bill 684

By: Representatives Chambers of the 81st, Scott of the 153rd, and Oliver of the 83rd

A BILL TO BE ENTITLED
AN ACT

To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to extensively revise and restate provisions relating to public access to public records and provisions relating to open meetings; to provide for definitions; to provide for procedures, exceptions, and civil and criminal enforcement; to provide for other related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by revising Chapter 14, relating to open and public meetings, as follows:

"CHAPTER 14

50-14-1.

(a) As used in this chapter, the term:

(1) 'Agency' means:

(A) Every state department, agency, board, bureau, commission, public corporation, and authority;

(B) Every county, municipal corporation, school district, or other political subdivision of this state;

(C) Every department, agency, board, bureau, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of the state;

(D) Every city, county, regional, or other authority established pursuant to the laws of this state; and

(E) Any nonprofit organization to which there is a direct or indirect allocation of tax funds made by the governing authority of any agency as defined in this paragraph and which allocation constitutes more than 33 1/3 percent of the funds from all sources of

such organization; ~~provided, however, this subparagraph shall not include hospitals, nursing homes, dispensers of pharmaceutical products, or any other type organization, person, or firm furnishing medical or health services to a citizen for which they receive reimbursement from the state whether directly or indirectly, nor shall this.~~ This term shall also include a subagency or affiliate of such a nonprofit organization from or through which the allocation of tax funds is made.

(2) 'Meeting' means the gathering of a quorum of the members of the governing body of an agency or of any committee of its members created by such governing body, whether standing or special, pursuant to schedule, call, or notice of or from such governing body or committee or an authorized member, at a designated time and place at which any public matter, official business, or policy of the agency is to be discussed or presented or at which official action is to be taken or, in the case of a committee, recommendations on any public matter, official business, or policy to the governing body are to be formulated, presented, or discussed. The assembling together of a quorum of the members of a governing body or committee for the purpose of making inspections of physical facilities under the jurisdiction of such agency or for the purposes of meeting with the governing bodies, officers, agents, or employees of other agencies at places outside the geographical jurisdiction of an agency and at which no final official action is to be taken shall not be deemed a 'meeting.'

(b) Except as otherwise provided by law, all meetings ~~as defined in subsection (a) of this Code section~~ shall be open to the public. Any resolution, rule, regulation, ordinance, or other official action of an agency adopted, taken, or made at a meeting which is not open to the public as required by this chapter shall not be binding. Any action contesting a resolution, rule, regulation, ordinance, or other formal action of an agency based on an alleged violation of this provision ~~must~~ shall be commenced within 90 days of the date such contested action was taken, provided that any action under this chapter contesting a zoning decision of a local governing authority shall be commenced within the time allowed by law for appeal of such zoning decision.

(c) The public at all times shall be afforded access to meetings declared open to the public pursuant to subsection (b) of this Code section. Visual, sound, and visual and sound recording during open meetings shall be permitted.

(d) Every agency shall prescribe the ~~time~~ times, ~~place~~ places, and dates of regular meetings of the agency. Such information shall be available to the general public, and a notice containing such information shall be posted and maintained in a conspicuous place available to the public at the regular meeting place of the agency. If the agency maintains a website, notice of regular meetings shall be posted on such website. Meetings shall be held in accordance with a regular schedule, but nothing in this subsection shall preclude

an agency from canceling or postponing any regularly scheduled meeting. Whenever any meeting required to be open to the public is to be held at a time or place other than at the time and place prescribed for regular meetings, the agency shall give due notice thereof. ~~'Due notice' shall be the~~ by posting of a written notice for at least 24 hours at the place of regular meetings, posting notice on the agency's website if the agency maintains a website, and giving ~~of~~ written or oral notice at least 24 hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held or at the option of the agency to a newspaper having a general circulation in said county at least equal to that of the legal organ; provided, however, that in counties where the legal organ is published less often than four times weekly, 'due notice' shall be the posting of a written notice for at least 24 hours at the place of regular meetings, on the agency's website if the agency maintains a website, and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone or facsimile to that requesting media outlet at least 24 hours in advance of the called meeting. When special circumstances occur and are so declared by an agency, that agency may hold a meeting with less than 24 hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances, including posting notice on the agency's website if the agency maintains a website and notice to said county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ; in which event, the reason for holding the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. Whenever notice is given to a legal organ or other newspaper, that publication shall immediately make the information available upon inquiry to any member of the public. Any oral notice required or permitted by this subsection may be given by telephone.

(e)(1) Prior to any meeting, the agency holding such meeting shall make available an agenda of all matters expected to come before the agency at such meeting. The agenda shall be available upon request and shall be posted at the meeting site and on the agency's website if the agency maintains a website, as far in advance of the meeting as reasonably possible, but shall not be required to be available more than two weeks prior to the meeting and shall be posted, at a minimum, at some time during the two-week period immediately prior to the meeting. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item.

(2) A summary of the subjects acted on and those members present at a meeting of any agency shall be written and made available to the public for inspection within two business days of the adjournment of a meeting of any agency. In addition to any other

locations, the summary shall be posted on the agency's website if the agency maintains a website. The minutes of a meeting of any agency shall be promptly recorded and such records shall be open to public inspection, including through posting on the website of the agency if the agency maintains a website, once officially approved as official by the agency, but in no case later than immediately following the next regular meeting of the agency, provided, however, nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the agency or not or earlier at the agency's discretion. Said minutes shall, as at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes. In the case of a roll-call vote, the name of each person voting for or against a proposal shall be recorded and in all other cases it. It shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining.

(f) An agency with state-wide jurisdiction shall be authorized to conduct meetings by telecommunications conference, provided that any such meeting is conducted in compliance with this chapter.

50-14-2.

Reserved.

~~This chapter shall not be construed so as to repeal in any way:~~

~~(1) The attorney-client privilege recognized by state law to the extent that a meeting otherwise required to be open to the public under this chapter may be closed in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved; provided, however, the meeting may not be closed for advice or consultation on whether to close a meeting; and~~

~~(2) Those tax matters which are otherwise made confidential by state law.~~

50-14-3.

This chapter shall not apply to the following:

(1) Staff meetings held for investigative purposes under duties or responsibilities imposed by law;

(2) The deliberations and voting of the State Board of Pardons and Paroles; and in addition, said board may close a meeting held for the purpose of receiving information or evidence for or against clemency or in revocation proceedings if it determines that the

receipt of such information or evidence in open meeting would present a substantial risk of harm or injury to a witness;

(3) Meetings of the Georgia Bureau of Investigation or any other law enforcement agency in ~~the~~ this state, including grand jury meetings;

(4) Meetings when any agency is discussing the future acquisition of real estate, except that such meetings shall be subject to the requirements of this chapter for the giving of ~~the~~ notice of such a meeting to the public and preparing the minutes of such ~~a~~ meeting; provided, however, that the disclosure of such portions of the minutes as would identify real estate to be acquired may be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings with respect thereto initiated;

(5) Meetings of the governing authority of a public hospital or any committee thereof when discussing the granting, ~~restriction, or revocation of staff privileges or the granting~~ of abortions under state or federal law;

(6) Meetings, including public school disciplinary hearings and peer reviews of health care providers, when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee ~~but,~~ except the meeting shall not be closed when receiving evidence or hearing argument on charges filed to determine disciplinary action or dismissal of a public officer or employee. The vote on any matter covered by this paragraph shall be taken in public, and minutes of the meeting as provided in this chapter shall be made available. Meetings by an agency to discuss or take action on the filling of a vacancy in the membership of the agency itself shall at all times be open to the public as provided in this chapter;

(7) Adoptions and proceedings related thereto;

(8) Meetings of the board of trustees or the investment committee of any public retirement system created by Title 47 when such board or committee is discussing matters pertaining to investment securities trading or investment portfolio positions and composition; ~~and~~

(9) Meetings when discussing any records ~~that are~~ exempt from public inspection or disclosure pursuant to ~~paragraph (15) of subsection (a) of~~ Code Section 50-18-72, when discussing any information a record of which would be exempt from public inspection or disclosure under said ~~paragraph~~ Code section, or when reviewing or discussing any security plan under consideration pursuant to ~~paragraph (10) of subsection (a) of~~ Code Section 15-16-10; and

(10) Court hearings involving delinquency, deprivation, or unruliness of juveniles, except as provided in Code Section 15-11-78.

50-14-4.

~~(a) When any meeting of an agency is closed to the public pursuant to any provision of this chapter, the specific reasons for such closure shall be entered upon the official minutes, the;~~

(1) The meeting shall not be closed to the public except by a majority vote of a quorum present for the meeting, the;

(2) The specific reasons for the closure shall be entered upon the official minutes;

(3) The minutes shall reflect the names of the members present and the names of those voting for closure, and that part of the minutes shall be made available to the public as any other minutes; and

(4) The chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

Where a meeting of an agency is devoted in part to matters within the exceptions provided by law, any portion of the meeting not subject to any such exception, privilege, or confidentiality shall be open to the public, and the minutes of such portions not subject to any such exception shall be taken, recorded, and open to public inspection as provided in subsection (e) of Code Section 50-14-1.

~~(b) When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.~~

50-14-5.

(a) The superior courts of this state shall have jurisdiction to enforce compliance with the provisions of this chapter, including the power to grant injunctions or other equitable relief. In addition to any action that may be brought by any person, firm, corporation, or other entity, the Attorney General shall have authority to bring enforcement actions, either civil or criminal, in his or her discretion as may be appropriate to enforce compliance with this chapter.

(b) In any action brought to enforce the provisions of this chapter in which the court determines that an agency acted without substantial justification in not complying with this chapter, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably

incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(c) Any agency or person who provides access to information in good faith reliance on the requirements of this chapter shall not be liable in any action ~~on account of having provided~~ for providing access to such information.

50-14-6.

Any person knowingly and willfully conducting or participating in a meeting in violation of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 12 months or a fine not to exceed \$500.00 \$5,000.00 or both."

SECTION 2.

Said title is further amended by repealing Article 4 of Chapter 18, relating to public access to public records, and enacting a new Article 4 to read as follows:

"ARTICLE 4

50-18-70.

(a) As used in this article, the term 'public record' means all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency of the executive or judicial branches. Public record shall also mean such items received or maintained by a private person or entity on behalf of a public office or agency which are not otherwise subject to protection from disclosure; provided, however, that this Code section shall be construed to disallow an agency from placing or causing such items to be placed in the hands of a private person or entity for the purpose of avoiding disclosure. Records received or maintained by a private person, firm, corporation, or other private entity in the performance of a service or function for or on behalf of an agency, a public agency, or a public office shall be subject to disclosure to the same extent that such records would be subject to disclosure if received or maintained by such agency, public agency, or public office. As used in this article, the term 'agency' or 'public agency' or 'public office' shall have the same meaning and application as provided for in the definition of the term 'agency' in paragraph (1) of subsection (a) of Code Section 50-14-1 and shall additionally include any association, corporation, or other similar organization which: (1) has a membership or ownership body composed primarily of counties,

municipal corporations, or school districts of this state or their officers or any combination thereof; and (2) derives a substantial portion of its general operating budget from payments from such political subdivisions.

(b) All public records of an agency, except those which by order of a court of this state or by law are prohibited or specifically exempted from being open to inspection by the general public, shall be open for a personal inspection by any person at a reasonable time and place; and those in charge of such records shall not refuse this privilege to any person.

(c) Any computerized index of a county's real estate deed records shall be printed for purposes of public inspection no less than every 30 days, and any correction made on such index shall be made a part of the printout and shall reflect the time and date that said index was corrected.

(d) Every agency shall prepare and update at least annually a list of all available records or reports prepared and maintained or received in the course of the operation of the agency. Such list shall include the format of each record or report and indicate the retention period of the information. No public officer or agency shall be required to prepare reports, summaries, or compilations not in existence at the time of the request.

(e) In a pending proceeding under Chapter 13 of this title, the 'Georgia Administrative Procedure Act,' or under any other administrative proceeding authorized under Georgia law, a party to the administrative proceeding may access public records pertaining to that proceeding unless access to those records is specifically exempted, but only with the permission of the administrative law judge presiding over that proceeding.

(f) The agency or person in control of such public record or records shall respond to the requestor within not more than three business days after the request. Where requested records exist but are not available within three business days of the request, a written description of such records and the reason for their unavailability, together with a timetable for their inspection and copying, shall be provided within three business days. Records exempt from inspection under this article need not be made available for inspection and copying or described other than as required by paragraph (5) of subsection (g) of this Code section, and no records need be made available for inspection or copying if the public officer or agency in control of such records shall have obtained, within that period of three business days, an order based on an exception in this article of a superior court of this state staying or refusing the requested access to such records. No records shall be produced until the fee or estimated fee has been approved by the requestor.

(g) The agency or person in charge of such public records shall respond in writing to the requestor within three business days with the following:

(1) Description of such requested records;

(2) Timetable for inspection and copying of requested records;

(3) Fees charged to provide requested information required by Code Section 50-18-71, including reasonable estimates of fees if fees cannot be immediately calculated;

(4) Any reasons the requested records may not be available within three business days; and

(5) Citation to any statutory or court ordered exemptions to access to the records. If access to such record or records is denied in whole or in part, the citation shall specify in writing the specific legal authority exempting such record or records from disclosure by Code section, subsection, and paragraph. No addition to or amendment of such designation shall be permitted thereafter or in any proceeding to enforce the terms of this article; provided, however, that:

(A) Such designation may be amended or supplemented one time within five days of discovery of an error in such designation or within five days of the institution of an action to enforce this article, whichever is sooner; and

(B) The right to amend or supplement based upon discovery of an error may be exercised on only one occasion.

In the event that such designation includes provisions not relevant to the subject matter of the request, costs and reasonable attorney fees may be awarded pursuant to Code Section 50-18-73.

(h) At the request of the person requesting such records, records maintained by computer shall be made available where practicable by electronic means, including Internet access, subject to reasonable security restrictions preventing access to nonrequested or unavailable records. A reasonable effort shall be made to provide the information in a readable format.

(i) Any person who deliberately and willfully denies the public access to public records that are accessible under the laws of this state shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of up to \$5,000.00 per violation and imprisonment for not more than 12 months or both. Any person who deliberately and willfully obtains confidential information to which he or she is not entitled or who deliberately and willfully violates the laws of this state by divulging information which is made confidential by law and which is excepted from disclosure under this article shall:

(1) Be guilty of a misdemeanor and upon conviction shall be punished by a fine of up to \$5,000.00 per violation and imprisonment for not more than 12 months or both; and

(2) Be personally liable for damages to any person or entity that result from disclosure of that confidential information.

50-18-71.

(a) When a person has a right to inspect or take extracts or make copies from any public records, such person shall have the right of access to the records for the purpose of making

photographs or reproductions of the same while in the possession, custody, and control of the lawful custodian thereof or his or her authorized deputy. Such work shall be done under the supervision of the lawful custodian of the records, who shall have the right to adopt and enforce reasonable rules governing the work, and shall be done in the room where the records, documents, or instruments are kept by law.

(b) Where fees for certified copies or other copies or records are specifically authorized or otherwise prescribed by law, such specific fee shall apply.

(c) Where no fee is otherwise provided by law, the agency may charge and collect a uniform copying fee not to exceed 25¢ per page and a fee for supervision of copying of not more than \$10.00 per hour.

(d) In addition, a reasonable hourly charge may be collected for search, retrieval, and other direct administrative costs for complying with a request under this article. The charge shall not exceed the hourly salary of the lowest paid full-time employee who, in the discretion of the custodian of the records, has the necessary skill and training to perform the request; provided, however, that no charge shall be made for the first quarter hour.

(e) An agency shall utilize the most economical means available for providing copies of public records.

(f) Where information requested is maintained by computer, an agency may charge the public its actual cost of a computer disk or tape onto which the information is transferred and may charge for the administrative time involved as set forth in subsection (d) of this Code section.

(g) Whenever any person has requested one or more copies of a public record and such person does not pay the copying charges and charges for search, retrieval, or other direct administrative costs in accordance with the provisions of this Code section, the entity producing such record is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to that entity. This subsection shall apply regardless of whether the person requesting the copies has appeared to receive the copies.

(h) Any cost or expense of determining what records or parts of records shall be produced shall be borne by the agency in charge of the records.

50-18-71.1.

(a) Notwithstanding any other provision of this article, an exhibit tendered to the court as evidence in a criminal or civil trial shall not be open to public inspection without approval of the judge assigned to the case or, if no judge has been assigned, approval of the chief judge or, if no judge has been designated chief judge, approval of the judge most senior in length of service on the court.

(b) In the event inspection is not approved by the court, in lieu of inspection of such an exhibit, the custodian of such an exhibit shall, upon request, provide one or more of the following representations of the exhibit:

(1) A photograph;

(2) A photocopy;

(3) A facsimile; or

(4) Another reproduction.

(c) The provisions of Code Section 50-18-71 shall apply to fees, costs, and charges for providing a photocopy of such an exhibit. Fees for providing a photograph, facsimile, or other reproduction of such an exhibit shall not exceed the cost of materials or supplies and a reasonable charge for time spent producing such photograph, facsimile, or other reproduction, in accordance with Code Section 50-18-71.

50-18-72.

(a) Public disclosure shall not be required for records that are within any of the following described categories:

(1) Federal requirements: records specifically required by federal statute or regulation to be kept confidential;

(2) Trade secrets described as follows:

(A) Any information required to be submitted to or received by the state or a state agency or at any hearing other than a court hearing that constitutes a trade secret as defined in Code Section 10-1-761; nonpublic and proprietary contents, processes, or methods of manufacture; sources of materials by entities other than public agencies; financial information that is not otherwise made public; security measures or systems; or other proprietary information, including proprietary information used in promulgating insurance rates or rating systems, except that information of a regulatory nature may be exchanged with officials of the United States government or the governments of other states when such officials are similarly prohibited by law from revealing this information; and

(B) Any information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning or other governmental agencies in the conduct of or as a result of study or research on commercial, scientific, technical, or scholarly issues where such information has not been publicly released, published, copyrighted, or patented;

(3) Medical and veterinary information described as follows:

(A) All medical records and testimony or evidence related to health, hospitalization, medications, or treatments of individuals, including, but not limited to, records of

treatment at any hospital or rehabilitation facility, mental health or counseling records, mental retardation records, alcohol and drug treatment records, all medical tests ordered and the results of those tests, vaccination records, and information about infectious or communicable diseases of deceased persons, except as ordered by a court of competent jurisdiction or otherwise permitted by law; and

(B) The identity of any complainant about mental health services, mental health service recipient on whose behalf a complaint is made, or individual providing information on behalf of those persons relevant to an investigation of mental health services, except with the express permission of the person whose identity is disclosed or in a court proceeding regarding the complaint for the purpose of that proceeding;

(4) Banking and financial records described as follows:

(A) Records of the Department of Banking and Finance, including records provided by banking regulatory authorities of other states, except those records to which the department may provide by rule, regulation, or order for public access when:

(i) In the opinion of the commissioner of banking and finance, the records do not contain nonpublic and proprietary information, and the public would benefit from disclosure of the records; and

(ii) The records are not subject to a nondisclosure agreement with another state.

Disclosures of records subject to this subparagraph may be made to other entities as provided in Code Section 7-1-70;

(B) Records maintained by any public retirement system connected to its confidential, proprietary financial transactions, including funds transfer instructions or access codes, account numbers, proprietary computer software, business, personal, or financial information concerning other parties, investment advice, exhibits to board or committee meetings that contain securities trading information, securities trade tickets, confirmations, and other records pertaining to securities trades, records containing proposed terms of sale for real property, information relating to investment portfolio composition and positions, and board and board committee minutes, except as provided in Code Section 47-1-14; and

(C) The following records of the Office of Treasury and Fiscal Services, or portions thereof, except as provided in Code Section 50-5A-11: participant account balances; all instructions related to the transfers of funds; account analysis statements received or prepared by the staff of the Office of Treasury and Fiscal Services; all bank account numbers and any record or document containing such numbers; all proprietary computer software, security codes, and procedures related to physical, electronic, or other access to the Office of Treasury and Fiscal Services, its systems, or its proprietary software; local government investment pool resolutions pertaining to opening and

maintaining bank accounts; investment trade tickets; bank statements; and bank fee payment schedules;

(5) Hazardous waste: information about hazardous waste, including transport and storage, that would pose a security risk in the opinion of the Department of Natural Resources;

(6) Military records: military discharge records, including DD 214 records, until 50 years after the discharge, except as provided in Code Section 15-6-72;

(7) Court records and orders described as follows:

(A) Any will filed with a probate court, prior to the death of the testator, except as provided in Code Section 15-9-38;

(B) Any records of any juvenile court proceeding or any court proceeding or administrative hearing involving a minor child, including any records collected or maintained to assess a minor who comes before the courts of this state, and any case plans, orders, records, and correspondence related thereto, except as otherwise provided by law;

(C) Adoption records, except as provided in Code Section 19-8-23; and

(D) Records of the deliberations of a grand jury, except as provided in Code Section 15-12-72;

(8) Law enforcement, penal system, and emergency response records described as follows:

(A) Except as otherwise provided by law, records compiled for law enforcement or prosecution purposes to the extent that production of such records would disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons, or disclose the existence of a confidential surveillance or investigation;

(B) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving said investigation and prosecution has become final or otherwise terminated through prolonged inactivity;

(C) Any records in the custody of law enforcement, the Department of Corrections, or any state agency or department involving a juvenile, including photographs and fingerprints, except as otherwise provided by law;

(D) Reports of child abuse, including child neglect, to a law enforcement agency, except as provided in Code Section 19-7-5; any records of child abuse or abuse by a child of a controlled substance, except as provided in Code Sections 49-5-41 and

49-5-41.1; and information in the child abuse registry, except as provided in Code Section 49-5-186;

(E) Contents of any communications intercepted by law enforcement without a warrant, except as provided in Code Section 16-11-64.3;

(F) Records reflecting on the loyalty of any resident of Georgia maintained under the 'Sedition and Subversive Activities Act of 1953,' Part 2 of Article 1 of Chapter 11 of Title 16, except as provided by Code Section 16-11-9;

(G) All records related to delinquent or unruly children, except as provided in Code Section 49-4A-8;

(H) Family violence reports prepared by law enforcement, except that anyone accused of family violence and anyone complaining of family violence or his or her attorney, in addition to other persons as provided in Code Section 17-4-20.1, may obtain copies of police reports regardless of whether an arrest was made;

(I) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written statement of need by the requesting party; provided, however, that any person or entity whose name or identifying information is contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any party. No party other than law enforcement, the press, or a prosecutor may copy more than one accident report in any 24 hour period unless such party or a vehicle belonging to such party's company was involved in more than one accident, such party is the attorney for parties involved in more than one accident and can provide written evidence of such party's engagement, or such party represents an insurance company that insured parties involved in more than one accident. For the purposes of this subparagraph, the term 'need' means that the natural person or legal entity who is requesting in person or by representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

(i) Has a personal, professional, or business connection with a party to the accident;

(ii) Owns or leases an interest in property allegedly or actually damaged in the accident;

(iii) Was allegedly or actually injured by the accident;

(iv) Was a witness to the accident;

(v) Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;

(vi) Is a prosecutor or a publicly employed law enforcement officer;

(vii) Is alleged to be liable to another party as a result of the accident;

(viii) Is an attorney stating that he or she needs the requested reports as part of a criminal case or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;

(ix) Is gathering information as a representative of a news media organization;

(x) Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, that this division shall apply only to accident reports on accidents that occurred more than 30 days prior to the request and which shall have the name, street address, telephone number, and driver's license number redacted; or

(xi) Is a governmental official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties;

(J) Information about crime victims maintained by penal institutions and information about rape victims and victims of assaults with the intent to commit rape, except as provided in Code Section 16-6-23, except that the victim may access that information;

(K) Information supplied by inmates to the Department of Corrections in confidence to remedy abuses and wrongdoing in the penal system;

(L) Investigation reports and intelligence data prepared by the Internal Investigations Unit of the Department of Corrections, except that said reports and data shall be accessible by the Georgia Bureau of Investigation and the Attorney General who shall hold those records in confidence and not make them available to the public but shall use them for their own investigative and prosecutorial purposes until the investigation or prosecution is complete;

(M) Institutional inmate files and central office inmate files maintained by the Department of Corrections, but said files shall be available to inmates, former inmates, their estates, agents, and attorneys or otherwise as permitted by Code Section 42-5-36;

(N) Reports, files, records, and papers of whatever kind regarding individual probationers who are supervised by a private entity contracting with a government entity or supervised by a government agency, which records shall only be available to the supervised individual to whom they apply or his or her agent, attorney, or estate, the affected county, municipality, or consolidated government, the judge handling a particular case, the Department of Audits and Accounts, or the Advisory Council for Probation or its designee;

(O) All information, both oral and written, received by members of the State Board of Pardons and Paroles in the performance of their duties, except as provided in Code Section 42-9-53; provided, however, that information and documents received by the

board shall be available to any person who is the subject of a parole hearing and to whose hearing those documents or information are relevant, his or her agent, attorney, or estate, except to the extent that in the reasonable opinion of the board, providing that information or documentation would jeopardize the personal safety of the person providing that information or documentation to the board;

(P) Records of arrests, charges, and sentences for crimes relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have been exonerated and discharged without court adjudications of guilt, except as specifically authorized by Code Section 35-3-34.1 or other law;

(Q) Unless the request is made by the accused in a criminal case or by his or her attorney, public records of an emergency 9-1-1 system containing information which would reveal the name, address, or telephone number of a person placing a call to a public safety answering point, which information may be redacted from such records if necessary to prevent the disclosure of the identity of a confidential source, to prevent disclosure of material which would endanger the life or physical safety of any person or persons, or to prevent the disclosure of the existence of a confidential surveillance or investigation. The person placing a 9-1-1 call or his or her agent or attorney may request and receive a recording or other record of the call that such person placed;

(9) Employment records described as follows:

(A) Confidential evaluations submitted to a governmental agency and prepared or used in connection with the appointment or hiring of a public officer or employee until 30 days after the position is filled or a decision is made not to fill the position; and records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees until ten days after the same has been presented to the agency or an officer for action or the investigation is otherwise concluded or terminated or 180 days after the last formal action has been taken in furtherance of the investigation, whichever first occurs, provided that this subparagraph shall not be interpreted to make such investigatory records privileged;

(B) Those portions of records which would identify persons applying for or under consideration for employment or appointment as executive head of an agency as that term is defined in paragraph (1) of subsection (a) of Code Section 50-14-1 or of a unit of the University System of Georgia; provided, however, that at least 14 calendar days prior to the meeting at which final action or vote is to be taken on the position, the agency shall release all documents which came into its possession with respect to all persons under consideration by such agency to fill the position. Prior to the release of these documents, an agency may allow a person to decline being considered further for the position rather than have documents pertaining to such person released. Upon

request, the hiring agency shall furnish the number of applicants and the composition of the list by such factors as race and sex. The agency shall not be allowed to avoid the provisions of this subparagraph by the employment of a private person or agency to assist with the search or application process;

(C) Information or records maintained by the Department of Labor concerning an individual, except such records shall be released to said individual or his or her estate, attorney, or agent or otherwise be made available in accordance with Code Section 34-8-121;

(D) Records of the Workers' Compensation Board containing information about settlements of claims and names of individuals filing claims, except as provided in Code Section 34-9-12;

(E) Accident reports filed by employers with the Department of Labor;

(F) Benefits selections, salary reductions, or deductions of public employees and officers, except as provided in Code Sections 45-18-36 and 45-18-53; and

(G) Information received in merit counseling sessions or related functions for public employees and officers, except as provided in Code Section 45-20-15;

(10) Property acquisition and improvement records as follows:

(A) Real estate appraisals, engineering, or feasibility estimates or other records made for or by the state or a local agency relative to the acquisition of real property until such time as a purchase and sale contract has been executed by the seller or the proposed transaction has been terminated or abandoned; and

(B) All engineers' cost estimates and pending, rejected, or deferred bids or proposals until such time as the final award of the contract is made or the project is terminated or abandoned;

(11) Historical records and historic sites records described as follows:

(A) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Board of Regents of the University System of Georgia when the owner or donor of such records wishes to place restrictions on access to the records. No restriction on access, however, may extend more than 75 years from the date of donation or sale. This exemption shall not apply to any records prepared in the course of the operation of state or local governments of the State of Georgia; and

(B) Records that contain information from the Department of Natural Resources' inventory and register relating to the location and character of a historic property or of historic properties as those terms are defined in Code Sections 12-3-50.1 and 12-3-50.2 if the Department of Natural Resources through its Division of Historic Preservation determines that disclosure will create a substantial risk of harm, theft, or destruction to

the property or properties or the area or place where the property or properties are located;

(12) Agricultural or food system information described as follows:

(A) Records, data, or information that are considered by the Georgia Department of Agriculture to be a part of the critical infrastructure, provided that nothing in this subparagraph shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this subparagraph, the term 'critical infrastructure' shall have the same meaning as in 42 U.S.C. Section 5195c(e). Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction; and

(B) Records that contain site specific information regarding the occurrence of rare species of plants or animals or the location of sensitive natural habitats on public or private property if the Department of Natural Resources determines that disclosure will create a substantial risk of harm, theft, or destruction to the species or habitats or the area or place where the species or habitats are located; provided, however, that the owner or owners of private property upon which rare species of plants or animals occur or upon which sensitive natural habitats are located shall be entitled to such information pursuant to this article;

(13) Personal information described as follows:

(A) Records that would reveal the names, home addresses, telephone numbers, security codes, or any other data or information developed, collected, or received by counties or municipalities in connection with the installation, servicing, maintaining, operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other electronic security systems; provided, however, that initial police reports and initial incident reports shall remain subject to disclosure;

(B) An individual's home address, e-mail address, telephone number, social security number, mother's birth name, credit card information, debit card information, bank account information, identification of immediate family members or dependents, security codes, employer, employment address and telephone number, financial data or information other than salary or payroll information for employees of government or government agencies, and insurance or medical information in all records, and if technically feasible at reasonable cost, day and month of birth, which shall be redacted prior to disclosure of any record requested pursuant to this article subject to the following exception and conditions:

(i) Social security numbers and day and month of birth shall not be redacted from such records if the person requesting such records requests such information in a

writing signed under oath by such person which states that such person is gathering information as a representative of a news media organization for use in connection with news gathering and reporting;

(ii) The news media organization exception for access to social security numbers and day and month of birth in division (i) of this subparagraph shall not apply to teachers, employees of a public school, or public employees. For purposes of this division, the term 'public employee' means any nonelected employee of the State of Georgia or its governmental and quasi-governmental entities or any political subdivision or its governmental and quasi-governmental entities;

(iii) Any person signing an affidavit as provided in this subparagraph shall be personally liable for any misrepresentations in that affidavit or any misuse of information provided in response to that affidavit and shall be subject to penalties as set forth in subsection (i) of Code Section 50-18-70; and

(iv) This subparagraph shall supplement and shall not supplant, overrule, replace, or otherwise modify or supersede any provision of statute, regulation, or law of the federal government or of this state as now or hereafter amended or enacted requiring, restricting, or prohibiting access to the information identified in this subparagraph and shall constitute only a regulation of the methods of such access where not otherwise provided for, restricted, or prohibited;

(C) Records of the State Road and Tollway Authority or any transit system which would reveal the travel history of any individual who is a motorist upon such toll project or is a passenger on such transit system;

(D) Records of athletic or recreational programs available through the state or a political subdivision of the state that include information identifying a child or children 12 years of age or under by name, address, telephone number, or emergency contact, unless such identifying information has been redacted;

(E) The identities or personally identifiable information of all participants in research on commercial, scientific, technical, medical, scholarly, or artistic issues conducted by the Department of Human Resources or a state institution of higher education whether sponsored by the institution alone or in conjunction with a governmental body or private entity, except that any person who was such a participant or his or her executor, agent, attorney, or other representative shall have the right to all information about his or her participation. For purposes of this subparagraph, the term 'personally identifiable information' means any information which if disclosed might reasonably reveal the identity of such person, including, but not limited to, the person's name, address, and social security number;

(F) Information on victims of identity theft maintained by the Governor's Office of Consumer Affairs related to complaints regarding identity fraud, except as provided in Code Section 16-9-123;

(G) Information about participation in research trials as described in Code Section 24-9-40.2, except as permitted in that statute;

(H) Insurance records regarding family violence, except as permitted in paragraph (15) of subsection (b) of Code Section 33-6-4;

(I) Motor vehicle registration records maintained by the state and motor vehicle records maintained by county tag offices, except as provided in Code Sections 40-2-130 and 40-3-23;

(J) Individual driver's license and permit records maintained by the state, except as provided in Code Section 40-5-2;

(K) The amount of income or any particulars set forth or disclosed in any report or return required under the laws of this state or any return or return information required by the Internal Revenue Code when the information or return is received from the Internal Revenue Service or submitted by the taxpayer, except as provided in Code Sections 48-7-60 and 48-7-170;

(L) Information on gross receipts provided to a local government for determination of occupation tax except as provided by Code Section 48-13-15; and

(M) Any application submitted to or any permanent records maintained by a judge of the probate court pursuant to Code Section 16-11-129, relating to licenses to carry pistols or revolvers, or pursuant to any other requirement for maintaining records relative to the possession of firearms. This subparagraph shall not preclude law enforcement agencies from obtaining records relating to licensing and possession of firearms as provided by law;

(14) Security records described as follows:

(A) Records the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, or public property, which shall be limited to the following:

(i) Security plans and vulnerability assessments for any public utility, technology infrastructure, building, facility, function, or activity in effect at the time of the request for disclosure or pertaining to a plan or assessment in effect at such time;

(ii) Any plan for protection against terrorist or other attacks, which plan depends for its effectiveness in whole or in part upon a lack of general public knowledge of its details;

(iii) Any document relating to the existence, nature, location, or function of security devices designed to protect against terrorist or other attacks, which devices depend for their effectiveness in whole or in part upon a lack of general public knowledge;
(iv) Any plan, blueprint, or other material which if made public could compromise security against sabotage, criminal, or terroristic acts; and

(v) Records, data, or information collected, recorded, or otherwise obtained that is deemed confidential by the Georgia Department of Agriculture for the purposes of the national animal identification system, provided that nothing in this division shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this division, the term 'national animal identification program' means a national program intended to identify animals and track them as they come into contact with or commingle with animals other than herdsmates from their premises of origin. Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction

In the event of litigation challenging nondisclosure pursuant to this subparagraph by an agency of a document covered by this paragraph, the court may review the documents in question in camera and may condition, in writing, any disclosure upon such measures as the court may find to be necessary to protect against endangerment of life, safety, or public property. As used in division (i) of this subparagraph, the term 'activity' means deployment or surveillance strategies, actions mandated by changes in the federal threat level, motorcades, contingency plans, proposed or alternative motorcade routes, executive and dignitary protection, planned responses to criminal or terrorist actions, after-action reports still in use, proposed or actual plans and responses to bioterrorism, and proposed or actual plans and responses to requesting and receiving the National Pharmacy Stockpile; and

(B) Data collected by the Department of Community Health about diseases, injuries, and conditions that the department has declared require notice, except that information regarding these diseases, injuries, and conditions may be released by the department in statistical form or for valid research purposes;

(15) Education records described as follows; provided, however, that this paragraph shall not be interpreted by any court of law to include or otherwise exempt from inspection the records of any athletic association or other nonprofit entity promoting intercollegiate athletics:

(A) School attendance records that identify students by name, except as provided in Code Section 20-2-697;

(B) The names of any minors involved in public school disciplinary hearings;

(C) Records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations; provided, however, that the name of any donor and the amount of donation made by such donor shall be subject to disclosure if such donor or any entity in which such donor has a substantial interest transacts business with the public postsecondary educational institution to which the donation is made within three years of the date of such donation. As used in this subparagraph, the term 'transact business' means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative in an amount in excess of \$10,000.00 in the aggregate in a calendar year. This shall include any business transacted through an agent or any other third party and business conducted through or by a subsidiary or affiliate, all of which shall be considered as part of the aggregate business conducted. As used in this subparagraph, the term 'substantial interest' means the direct or indirect ownership of more than 25 percent of the assets or stock of an entity and any partnership interest whether general or limited;

(D) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of an institution of higher education or any public or private entity supporting or participating in the activities of an institution of higher education in the conduct of, or as a result of, study or research on medical, scientific, technical, scholarly, or artistic issues, until such information is published, patented, otherwise publicly disseminated, or otherwise released. This subparagraph applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, methodologies, protocols, and creative works; and

(E) Unless otherwise provided by law, contract, bid, or proposal, records consisting of questions, scoring keys, and other materials constituting a test that derives value from being unknown to the test taker prior to administration, which is to be administered by the State Board of Education, the Office of Student Achievement, or a local school system, if reasonable measures are taken by the owner of the test to protect security and confidentiality; provided, however, that the State Board of Education may establish procedures whereby a person may view, but not copy, such records if viewing will not, in the judgment of the board, affect the result of administration of such test;

(16) Records of activities of government entities described as follows:

(A) Documents or information pertaining to requests for or giving of legal advice to local government entities or disclosure of reports or evaluations of persons, including

adjusters, assigned to evaluate and adjust claims concerning or pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or judicial actions brought or to be brought by or against a local government entity, until final disposition of claims to which they apply;

(B) State audit work papers and preliminary draft reports, except as provided under Code Section 50-6-9;

(C) Records of legislative staff agencies described as follows, provided that the specific statement of privileges in this subparagraph shall not be construed to imply that other records of the legislative branch or its members are subject to this article:

(i) Communications between the Office of Legislative Counsel and members of the General Assembly, the Lieutenant Governor, and persons acting on their behalf and communications, records, and work product related to such communications. Such communications shall not be subject to disclosure under this or any other law or under judicial process. The protection provided in this division shall be in addition to protection provided by any other constitutional, statutory, or common law privilege; and

(ii) Records related to the provision of staff services to individual members of the General Assembly by the Legislative and Congressional Reapportionment Office or other legislative staff offices, provided that records related to the provision of staff services to any committee or subcommittee or records which are or have been previously publicly disclosed by or pursuant to the direction of an individual member of the General Assembly shall be provided to the public on request in such manner as shall be established by each such staff office but shall not be subject to this article;

(D) Information from the Georgia Lottery Commission related to trade secrets, confidential and proprietary security measures, systems, procedures, or reports and information about the contents of prizewinner records or information, except as provided in Code Section 50-27-54;

(17) Insurance records described as follows:

(A) Information obtained from an insurance company by a fire marshal, his or her deputy, a fire chief, or the Georgia Bureau of Investigation regarding the insurance company's investigation of a fire, except as permitted by Code Section 25-2-33;

(B) Information including papers, documents, reports, or other evidence collected by the Insurance Commissioner as part of an insurance rate investigation, except as set forth in Code Section 33-1-16;

(C) Insurance investigation reports, until the investigation has concluded or prosecution has concluded, whichever first occurs, except as provided in 33-2-14; and

(D) Insurance investigation reports made by the Commissioner of Insurance in accordance with Code Section 33-2-14, except as provided in that statute; and

(18) Other records described as follows:

(A) Information maintained in a state data base regarding child support obligors, except as provided in Code Section 19-11-30.4;

(B) Information obtained from a domestic violence registry, except as otherwise authorized by law;

(C) Records of a child abuse review committee or protocol committee as set forth in Code Section 19-15-6, except as set forth in that statute;

(D) Applications for voter registration, except as provided in Code Section 21-2-225;

(E) The names of any disabled adults or elder persons alleged to have been abused while in the custody of the Department of Human Resources, except that those names shall be provided to law enforcement and to parties alleged to have been abused, their estates, and their agents;

(F) Potentially commercially valuable plans of hospital authorities or corporations operating hospitals, except as set forth in Code Section 31-7-75.2;

(G) Vital records except as set forth in Code Section 31-10-25;

(H) Information provided to licensing boards and board deliberations as described in Code Section 43-1-2;

(I) Information about persons receiving services from licensees who are the subjects of licensing board inquiries, except as set forth in Code Section 43-1-19;

(J) Real state appraiser applications and supporting documentation, except as set forth in Code Section 43-39A-7;

(K) Real estate brokers application information, except as set forth in Code Section 43-40-7;

(L) Identities of public employees who complain or provide information to their employers regarding fraud, waste, or abuse, except as provided in Code Section 45-1-4;

(M) Books, records, and other information collected by a coroner or medical examiner as part of an investigation into the death of an individual;

(N) Autopsy photographs, except as provided by Code Section 45-16-27;

(O) Information secured by the commissioner of revenue incident to the administration of any tax or obtained from or furnished by an ad valorem taxpayer to a board of tax assessors, except as provided in Code Section 48-2-15 or 48-5-314; and

(P) Public records containing information that would disclose or might lead to the disclosure of any component in the process used to execute or adopt an electronic signature, if such disclosure would or might cause the electronic signature to cease being under the sole control of the person using it. For purposes of this subparagraph,

the term 'electronic signature' has the same meaning as that term is defined in Code Section 10-12-3.

(b) This Code section shall have no application to:

(1) The disclosure of information contained in the records or papers of any court or derived therefrom, including, without limitation, records maintained pursuant to Article 9 of Title 11 and records that are kept by the probate court pertaining to guardianships and conservatorships, except as provided in Code Section 29-9-18;

(2) The disclosure of information to a court, prosecutor, or publicly employed law enforcement officer, or authorized agent thereof, seeking records in an official capacity;

(3) The disclosure of information to a public employee of this state, its political subdivisions, or the United States who is obtaining such information for administrative purposes, in which case, subject to applicable laws of the United States, further access to such information shall continue to be subject to the provisions of this Code section;

(4) The disclosure of information as authorized by the order of a court of competent jurisdiction upon good cause shown to have access to any or all of such information upon such conditions as may be set forth in such order;

(5) The disclosure of information to the individual in respect of whom such information is maintained, with the authorization thereof, or to an authorized agent thereof; provided, however, that the agency maintaining such information shall require proper identification of such individual or such individual's agent, or proof of authorization, as determined by such agency;

(6) The disclosure of the day and month of birth and mother's birth name of a deceased individual;

(7) The disclosure by an agency of credit or payment information in connection with a request by a consumer reporting agency as that term is defined under the federal Fair Credit Reporting Act, 15 U.S.C., Section 1681, et seq.;

(8) The disclosure by an agency of information in its records in connection with the agency's discharging or fulfilling of its duties and responsibilities, including, but not limited to, the collection of debts owed to the agency or individuals or entities whom the agency assists in the collection of debts owed to the individual or entity; or

(9) The disclosure of information necessary to comply with legal or regulatory requirements or for legitimate law enforcement purposes.

Records and information disseminated pursuant to this subsection shall be used only by the authorized recipient and only for the authorized purpose.

(c) In the event that the custodian of public records protected by this Code section has good faith reason to believe that a pending request for such records has been made fraudulently, under false pretenses, or by means of false swearing, such custodian shall

apply to the superior court of the county in which such records are maintained for a protective order limiting or prohibiting access to such records.

(d) This article shall not be construed to repeal:

(1) The attorney-client privilege recognized by state law to the extent that a record pertains to the requesting or giving of legal advice or the disclosure of facts concerning or pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee; provided, however, that attorney-client information may be obtained in a proceeding under Code Section 50-18-73 to prove justification or lack thereof in refusing disclosure of documents under this Code section, provided the judge of the court in which said proceeding is pending shall first determine by an in camera examination that such disclosure would be relevant on that issue;

(2) The confidentiality of attorney work product; or

(3) State laws making certain tax matters confidential.

(e)(1) As used in this subsection, the term:

(A) 'Computer program' means a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

(B) 'Computer software' means one or more computer programs, existing in any form, or any associated operational procedures, manuals, or other documentation.

(2) This article shall not be applicable to any computer program or computer software used or maintained in the course of operation of a public office or agency.

(f) This Code section shall be interpreted narrowly so as to exclude from disclosure only that portion of a public record to which an exclusion is directly applicable. It shall be the duty of the agency having custody of a record to provide all other portions of a record for public inspection or copying.

50-18-73.

(a) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against persons or agencies having custody of records open to the public under this article to enforce compliance with the provisions of this article. Such actions may be brought by any person, firm, corporation, or other entity. In addition, the Attorney General shall have authority to bring such actions, either civil or criminal, in his or her discretion as may be appropriate to enforce compliance with this article.

(b) In any action brought to enforce the provisions of this article in which the court determines that either party acted without substantial justification either in not complying with this article or in instituting the litigation, the court shall, unless it finds that special

circumstances exist, assess in favor of the complaining party reasonable attorney fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(c) Any agency or person who provides access to information in good faith reliance on the requirements of this article shall not be liable in any action on account of having provided access to such information.

50-18-74.

A prosecution under this article shall only be commenced by issuance of a citation in the same manner as an arrest warrant for a peace officer pursuant to Code Section 17-4-40, which citation shall be personally served upon the accused. The defendant shall not be arrested prior to the time of trial, except that a defendant who fails to appear for arraignment or trial may thereafter be arrested pursuant to a bench warrant and required to post a bond for his or her future appearance.

50-18-75.

Any form, document, or other written matter which is required by law or rule or regulation to be filed as a vital record under the provisions of Chapter 10 of Title 31, which contains information which is exempt from disclosure under Code Section 31-10-25, and which is temporarily kept or maintained in any file or with any other documents in the office of the judge or clerk of any court prior to filing with the Department of Human Resources shall be open to inspection by the general public, after the exempt information is redacted.

50-18-76.

The procedures and fees provided for in this article shall not apply to public records, including records that are exempt from disclosure pursuant to Code Section 50-18-72, which are requested in writing by a state or federal grand jury, taxing authority, law enforcement agency, state auditor, state legislative committee, state task force, state attorney general, or prosecuting attorney in conjunction with an ongoing administrative, criminal, or tax investigation. The lawful custodian shall provide copies of such records to the requesting agency or party unless such records are privileged or disclosure to such agencies is specifically restricted by law."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.